

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

DONNIE JOE BACON, )  
                        )  
Petitioner,         )  
                        )  
v.                     ) Case No. CIV-05-510-W  
                        )  
MARTY SIRMONS, WARDEN, *et al.*,     )  
                        )  
Respondents.         )

**Report and Recommendation Concerning Attorney General's Status**

The Respondents have moved to dismiss the Oklahoma Attorney General as a party.<sup>1</sup>

The Petitioner concedes this portion of the Respondents' motion,<sup>2</sup> and the Attorney General is indeed an improperly named respondent.<sup>3</sup> Accordingly, the Court should dismiss the Oklahoma Attorney General as a party.

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<sup>1</sup> Response to Petition for Writ of Habeas Corpus at pp. 5-6 (July 5, 2005).

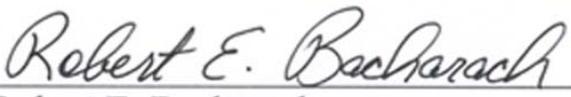
<sup>2</sup> Petitioner's Reply to Respondent's Answer and Response to Petition for a Writ of Habeas Corpus at pp. 1-2 (Nov. 14, 2005).

<sup>3</sup> See *Crowley v. Graham*, 172 F.3d 62, 1999 WL 72123, Westlaw op. at 1 (10th Cir. Feb. 16, 1999) (unpublished op.) (holding that the Utah Attorney General was not a proper party to a habeas action).

The Petitioner can object to this report and recommendation.<sup>4</sup> To do so, Mr. Bacon must file an objection with the Clerk of this Court by April 3, 2006.<sup>5</sup> The failure to timely object would foreclose appellate review of the suggested ruling.<sup>6</sup>

The referral to the undersigned is not terminated.

Entered this 14th day of March, 2006.

  
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Robert E. Bacharach  
United States Magistrate Judge

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<sup>4</sup> See 28 U.S.C. § 636(b)(1) (2000).

<sup>5</sup> See W.D. Okla. LCvR 72.1(a).

<sup>6</sup> See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); see also *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).